

(i) The draft cohort default rate is considered to be your most recent cohort default rate; and

(ii) If the cohort used to calculate your draft cohort default rate included fewer than 30 borrowers, you may calculate your participation rate index for that fiscal year using either your most recent draft cohort default rate or the average rate that would be calculated for that fiscal year, using the method described in § 668.183(d)(2).

(3) You must send your participation rate index challenge, including all supporting documentation, to us within 45 days after you receive your draft cohort default rate.

(4) We notify you of our determination on your participation rate index challenge before your official cohort default rate is published.

(5) If we determine that you qualify for continued eligibility based on your participation rate index challenge, you will not lose eligibility under § 668.187 when your next official cohort default rate is published. A successful challenge that is based on your draft cohort default rate does not excuse you from any other loss of eligibility. However, if your successful challenge of a loss of eligibility under paragraph (c)(1)(ii) of this section is based on a prior, official cohort default rate, and not on your draft cohort default rate, we also excuse you from any subsequent loss of eligibility, under § 668.187(a)(2), that would be based on that official cohort default rate.

(Approved by the Office of Management and Budget under control number 1845–0022)

(Authority: 20 U.S.C. 1082, 1085, 1094, 1099c)

[65 FR 65638, Nov. 1, 2000, as amended at 74 FR 55649, Oct. 28, 2009]

§ 668.186 Notice of your official cohort default rate.

(a) We electronically notify you of your cohort default rate after we calculate it, by sending you an eCDR notification package to the destination point you designate. After we send our notice to you, we publish a list of cohort default rates calculated under this subpart for all institutions.

(b) If you have one or more borrowers entering repayment or are subject to sanctions, or if the Department be-

lieves you will have an official cohort default rate calculated as an average rate, you will receive a loan record detail report as part of your eCDR notification package.

(c) You have five business days, from the transmission date for eCDR notification packages as posted on the Department's Web site, to report any problem with receipt of the electronic transmission of your eCDR notification package.

(d) Except as provided in paragraph (e) of this section, timelines for submitting challenges, adjustments, and appeals begin on the sixth business day following the transmission date for eCDR notification packages that is posted on the Department's Web site.

(e) If you timely report a problem with the receipt of the electronic transmission of your eCDR notification package under paragraph (c) of this section and the Department agrees that the problem with transmission was not caused by you, the Department will extend the challenge, appeal and adjustment deadlines and timeframes to account for a retransmission of your eCDR notification package after the technical problem is resolved.

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(Authority: 20 U.S.C. 1082, 1085, 1094, 1099c)

[74 FR 55649, Oct. 28, 2009]

§ 668.187 Consequences of cohort default rates on your ability to participate in Title IV, HEA programs.

(a) *End of participation.* (1) Except as provided in paragraph (e) of this section, you lose your eligibility to participate in the FFEL and Direct Loan programs 30 days after you receive our notice that your most recent cohort default rate is greater than 40 percent.

(2) Except as provided in paragraphs (d) and (e) of this section, you lose your eligibility to participate in the FFEL, Direct Loan, and Federal Pell Grant programs 30 days after you receive our notice that your three most recent cohort default rates are each 25 percent or greater.

(b) *Length of period of ineligibility.* Your loss of eligibility under this section continues—